

CNI-100-C

PATENT  
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Upon entry of this Amendment, claims 1-7, 9-11, and 13-47 remain in this case. Claim 12 has been canceled by a previous action, without prejudice. Claim 8 has been has canceled by this action.

The Office Action of January 7, 2004 has been received and carefully considered. In response thereto, this Amendment is submitted. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Reconsideration is, therefore, respectfully requested.

Additionally, this Amendment is being submitted under the provisions of 37 C.F.R. § 1.116. It is submitted that the proposed Amendment seeks to place the claims in a condition suitable for allowance or appeal. This action seeks to remove issues for consideration on appeal and address minor errors in grammar and the like. Additionally, this Amendment presents a good-faith attempt to resolve all issues remaining in the application in order to place the case in condition for allowance. Entry of this Amendment under the provisions of 37 C.F.R. 1.116 is respectfully requested.

At the outset, claims 1-32 currently stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of US Patent No. 6,291,019B1. In view of the current amendment and outstanding claim rejections, the applicants wish to defer submission of a terminal disclaimer until the other rejections and objections have been addressed and resolved. However, should the double-patenting rejecting remain at that point, the applicants are willing to submit a properly configured terminal disclaimer to address the double-patenting rejection.

Claims 1-7, 9-11, and 13-32 currently stand rejected under 35 U.S.C. § 112 as being indefinite to particularly point and distinctly claim the subject matter which the

CNI-100-C

PATENT  
AFTER FINAL

applicant regards as the invention. Claims 1, 13, 20, 24 have been amended paying careful attention to the Examiner's observations and comments. It is respectfully submitted that the Applicants' invention as set forth in claims 1-7, 9-11 and 13-32 now particularly point out and distinctly claim the subject matter that the applicant regards as the invention.

Claims 33-35, 37-41, 43, 45, and 47 currently stand rejected under 35 U.S.C. § 102(e) as being anticipated by Primeaux II, et al. The Examiner contends that the Primeaux reference teaches an elastomeric coating material for use as an interior lining of rail cars. The Examiner indicates that the coating material comprises an amine-terminated polyether polyol having a molecular weight greater than about 1500 and amine equivalent weight greater than about 750, as well as an isocyanate compound. When mixed, these materials react to form a polyurea and cure substantially instantaneously. The Examiner indicates that the Primeaux reference teaches the application of the material to rail cars. The Examiner contends that the reference is open to all rail cars and does not limit itself only to cargo carrying rail cars and, as such, the reference reads on any rail car that would benefit from an impact and abrasive coating that is flexible to withstand the flexing of the rail car. The Examiner indicates that this most certainly reads on rail cars that may carry a passenger.

Claim 33 has been amended to specify that the method is directed to attenuating vibration transmitted through an automotive passenger vehicle to an interior cabin thereof. The method includes providing at least one body component of an automotive passenger vehicle. Support for claim 33 as amended is found in the specification at page 1, paragraph 0003, where there is a discussion of the needs associated with luxury automobiles. It is respectfully submitted that the Primeaux reference lacks any teaching of a method for attenuating vibration in an automotive passenger vehicle. It is respectfully submitted that rail cars differ from automotive passenger vehicles in

CNI-100-C

PATENT  
AFTER FINAL

numerous aspects. Among these are size, travel media, and the like. It is respectfully submitted that the size differential and travel media (road versus rail) as well as propulsion differences create issues of noise vibration and harshness that are unique to automotive vehicles and not appreciated or further experienced in rail cars. It is further submitted that the Primeaux reference fails to teach or suggest a method for attenuating vibration transmitted through an automotive passenger vehicle that includes the step of providing at least one component of an automotive vehicle and providing a substantially organic material consisting essentially of the liquid mixture as defined in claim 33 and applying the liquid mixture to the body component in a manner sufficient that, upon curing thereof, the substantially organic material attenuates vibration of at least one body component. Thus, it is submitted that the applicants' invention as set forth in claim 33 is not taught, anticipated, or rendered obvious by the Primeaux reference.

Claims, 34, 37, 38, 40, 41, 43, 45, and 47 also stand rejected under 35 U.S.C. § 102(e) as being anticipated by Primeaux et al. The aforementioned claims depend either directly or indirectly from claim 33 to contain all of the limitations found therein. By this dependency, it is submitted that applicants' invention is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 33.

Claim 35 also stands rejected under 35 U.S.C. § 102(e) as being anticipated by Primeaux et al. Claim 35 has been amended to specify that the body component of the automotive passenger vehicle is at least one of a metal stamping, a body in white, carbon graphite composites, fiberglass, polycarbonates, ABS, or structural polymeric materials. Support for claim 35 as amended is found in claim 8 as originally presented. It is submitted that the Primeaux reference fails to teach or suggest the aforementioned body components. In contrast, any body components utilized in Primeaux such as metal stampings, for example, would be of a size and configuration significantly different from

CNI-100-C

PATENT  
AFTER FINAL

those found in passenger vehicles. Additionally, it is submitted that the Primeaux reference fails to teach or suggest the application of the material to components such as a body in white or materials such as carbon graphite composites, fiberglass, etc. Thus, it is submitted that the applicants' invention as set forth in claim 35 is not taught, anticipated, or rendered by the Primeaux reference.

Claims 1-7, 9-11, 13-20, 22-29, 36, 42, 44 and 46 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Primeaux (US 5,962,618). The Examiner contends that the Primeaux reference teaches an elastomeric coating material for use on a substrate. The coating material comprises an amine-terminated polyether polyol having a specified molecular weight together with an isocyanate compound. When mixed, these materials react to form a polyurea and cure substantially instantaneously. The materials disclosed in the Primeaux reference are held to be such that, when mixed, they form a compound having a predetermined tensile strength, hardness, and flexibility. Given the limitation that the material be applied at ambient temperature and pressure, the Examiner contends that since the reference applies material to a large substrate such as a rail car with no means taken to heat or cool the car, the Primeaux reference teaches the skilled artisan the application of material at ambient and/or pressure.

The Examiner further contends that the flexibility of the coating as disclosed in the Primeaux reference as indicated at column 2, lines 35-40, is equivalent to vibration attenuation. Furthermore, the Examiner indicates that, since the coating taught by Primeaux is the same as the coating taught by the applicant, it would be inherent that the coating by Primeaux would act to attenuate vibration, noise, and harshness.

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Primeaux et al. The applicants' invention as set forth in claim 1 is directed to a method

CNI-100-C

PATENT  
AFTER FINAL

for damping vibration of a substrate including the steps of providing a substrate that is at least one of a body in white, carbon graphite composites, fiberglass, polycarbonate, ABS, or structural polymeric material. Support for this definition is found in claim 8 and previously set forth. The method as set forth in claim 1 further includes the step of mixing these two components to form a liquid material in the nature defined therein which, upon mixing, forms a polyurea. The liquid material is applied to the substrate at an ambient temperature in a manner such that the liquid material produces an application pattern and is cured substantially instantaneously upon application and adheres to the substrate in a manner that attenuates vibration, noise, and harshness transmitted through the substrate.

It is respectfully submitted that the Primeaux reference fails to teach or suggest the application of the liquid material defined in claim 1 to a substrate that is at least one of a body in white, carbon graphite composites, fiberglass, polycarbonates, ABS, or structural polymeric materials. Furthermore, it is submitted that the Primeaux reference teaches the application of the material defined therein to large-span constructions, namely, rail cars. The material as taught in Primeaux is described as exhibiting excellent flexibility and elongation when applied to rail cars to withstand the constant flexing to which rail cars are subject (see column 2, lines 37-39). The Examiner contends that the flexibility of the coating disclosed in the Primeaux reference reads on attenuating vibration. "Flexibility" can be defined as capable of being bent or flexed as in pliable. More specifically, it can be defined as the capacity of being bent repeatedly without injury or damage. Thus the abrasion resistant coating disclosed in Primeaux can move with the underlying substrate or railcar as it flexes and bends to prevent or avoid detachment. In contrast, vibration or vibrate can be defined as the ability to move back and forth or to and fro, especially rhythmically and rapidly as in producing a sound or resonance. Attenuation is the reduction in the amplitude of an event such as noise,

CNI-100-C

PATENT  
AFTER FINAL

vibration, or harshness. Thus the application of the material as defined in claim 1 works to cancel or counterbalance some aspect of the vibration event or cycle. Without being bound to any theory, it is believed that the aspect may be one that is manifested as an acoustic phenomenon and may be, at least in part, the result of sympathetic or harmonic vibration incident to the size and configuration of substrate. It is unclear how the characteristic of flexibility disclosed in Primeaux can be inferred to impart attenuation vibrations. If anything, it is believed that flexibility, i.e. the ability of the material to bend and move with the substrate would render the applied material inappropriate for vibration dumping or attenuation.

The Examiner also indicates that, since the coating taught by Primeaux is the same as the coating taught by the applicant, it would be inherent that coating of Primeaux would act to attenuate noise, vibration, and harshness. It is respectfully submitted that vibration attenuation is a function of a material interactively associated with the specific substrate. Thus, it is submitted that application of a material to a rail car to provide abrasion resistance does not necessarily lead to the conclusion that application of a material as defined in claim 1 to the substrate as defined therein would provide appropriate or advantageous features such as attenuation of noise, vibration, and harshness. For these reasons, it is submitted that the applicants' invention as set forth in claim 1 is not taught, anticipated, or rendered obvious by the Primeaux reference.

Claims 2-7 currently stand rejected under 35 U.S.C. § 103(a) as being rendered obvious in view of Primeaux. Claims 2-7 depend from independent claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claims 2-7 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 1.

CNI-100-C

PATENT  
AFTER FINAL

Claim 9 currently stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by the Primeaux reference. Claim 9 depends from independent claim 1 to specify that the substrate is a body in white. It is respectfully submitted that the Primeaux reference fails to teach or suggest such a substrate.

Claims 10 and 11 all stand rejected under 35 U.S.C. § 103(a) as being rendered in view of Primeaux et al. Claims 10 and 11 depend either directly or indirectly from claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claims 10 and 11 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 1.

Claim 13 currently stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by the Primeaux reference. The applicants' invention as set forth in claim 13 is directed to a method for dampening vibration of a substrate in which the substrate provided is at least one of a body in white, carbon graphite composites, fiberglass, polycarbonates, ABS, or structural polymeric materials. It is respectfully submitted that the Primeaux reference fails to teach or suggest any of these substrate materials. With regard to the Examiner's assertion that it would have been obvious to apply the coating of Primeaux to any substrate that would benefit from having additional impact and abrasion resistance, it is respectfully submitted that the body in white as defined herein as well as the other substrates specified are not typically substances which require abrasion and impact resistance as discussed and contemplated in Primeaux. Thus, the Examiner has failed to provide any motivation whereby the skilled artisan would apply these materials to the substrate specified. Additionally, it is submitted that the applicants' invention as set forth in claim 13 is directed to a method for damping vibration. As indicated previously in conjunction with claim 1, the Primeaux reference fails to teach or suggest such

CNI-100-C

PATENT  
AFTER FINAL

capacity. For these reasons, it is submitted that the applicants' invention as set forth in claim 13 is not taught, anticipated, or rendered obvious by the cited reference.

Claims 14 and 15 also stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux. Claims 14 and 15 depend from independent claims 13 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claims 14 and 15 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 13.

Claims 16 and 17 currently stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by the Primeaux reference. The Examiner indicates that the Primeaux reference teaches the use of polyether polyol but is silent on the specific types. The Examiner contends that the use of a di-, tri-, quad-, or pentafunctional polyether polyol would have been obvious at the time the invention was made to a person having ordinary skill in the art with reasonable expectation of success. The applicants fail to see any teaching or suggestion that supports this assertion in the Primeaux reference or in any references cited by the Examiner. The applicants respectfully submit that chemistry is an unpredictable science. Thus, without further teaching directed to the use of di-, tri-, quad-, or pentafunctional polyether polyols, it is respectfully submitted that the Examiner is basing his assertion on the teaching of the present invention rather than on that which would be known to the person having ordinary skill in the art at the time the present invention was made. For this reason, it is submitted that the applicants' invention as set forth in claim 16 and in claim 17 is not taught, anticipated, or rendered obvious by the cited reference.

Claims 18 and 19 also stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by the Primeaux reference. Claims 18 and 19 depend either directly or indirectly



CNI-100-C

PATENT  
AFTER FINAL

from independent claim 13 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claims 18 and 19 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 13.

Claim 20 currently stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by the Primeaux reference. The applicants' invention as set forth in claim 20 is directed to a method for dampening vibration of a substrate in which the substrate is at least one of a body in white, carbon graphite composite, fiberglass, polycarbonate, ABS, or structural polymeric materials. It is respectfully submitted that the Primeaux reference, directed to rail cars, fails to teach or suggest such substrates. Thus, it is submitted that the applicants' invention as set forth in claim 20 is not taught, anticipated, or rendered obvious by the cited reference.

Claims 22 and 23 also stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by the Primeaux reference. It is respectfully submitted that, with respect to claim 22, the Primeaux reference discloses various polyols and amine terminated polyether polyols. It is not clear that the reference can be extended to the polyoxylene polymer, i.e. materials set forth in claim 22. Additionally, claims 22 and 23 depend from independent claim 20 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claims 22 and 23 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 20.

Claim 24 also stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux. As amended, claim 24 is directed to a method for damping vibration of a substrate, the substrate being at least one of a body in white, carbon graphite composites, fiberglass, polycarbonate, ABS, or structural polymeric materials. It is respectfully

CNI-100-C

PATENT  
AFTER FINAL

submitted that the Primeaux reference failed to teach or suggest a method whereby a substrate as defined can be treated for vibration damping as disclosed in claim 24.

Claims 25, 26, 27, 28, 29 also stands rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux. Claim 25, 26, 27, 28, 29 depends from claim 24 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claims 25, 26, 27, 28, 29 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 24.

Claim 36 also stands rejected under 35 U.S.C. § 103(a) being rendered obvious by the Primeaux reference. Claim 36 depends from independent claim 35 and ultimately from claim 33 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claim 36 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously in conjunction with claim 33.

Claim 42, 44, and 46 also stand rejected under 35 U.S.C. § 103(a) being rendered obvious by the Primeaux reference. Claim 42, 44, and 46 depend from independent claim 33 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claim 42, 44, 46 are not taught, anticipated, or rendered obvious by the cited reference.

Claims 21 and 30-32 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable under Primeaux in view of Xiao. The Examiner indicates that the Primeaux reference teaches the use of aliphatic diamines as chain extenders. The Examiner indicates that the Xiao reference teaches that tack is a common filler for materials such as these coatings. Claims 21 and 30 have been amended to more specifically define the fillers employed in the present invention. It is respectfully submitted that Primeaux in

CNI-100-C

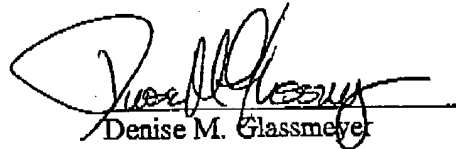
PATENT  
AFTER FINAL

view of Xiao fails to teach or suggest that the applicants' invention as set forth in claims 21 and 30 as amended.

Claims 31 and 32 also stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by Primeaux in view of Xiao. Claims 31 and 32 depend from claim 32 and, ultimately, from claim 25 to contain all of the limitations found therein. By this dependency, it is submitted that the applicants' invention as set forth in claims 31 and 32 is not taught, anticipated, or rendered obvious by the cited reference for the reasons discussed previously.

In summary, claims 1, 9, 13, 17, 20, 21, 23, 24, 30, 33, 34, 35, have been amended by this action. Additionally, discussion and analysis as to why the applicants' invention as set forth in claims 1-7, 9-11, and 13-47 have been presented. In view of this amendment and the foregoing discussion, it is respectfully submitted that the applicants' invention is in a condition suitable for allowance. A Notice Of Allowance is, therefore, respectfully requested. In the alternate, it is requested that the amendment be entered for purposes of Appeal.

Respectfully submitted,



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